

**Ministry of Fisheries, Oceans and Maritime  
Affairs**

**Vanuatu Pacific Islands Regional Oceanscape  
Program (VU PROP)**

**First Phase**

**P513248**

**LABOUR MANAGEMENT PROCEDURES**

**Final Draft**

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## 1 INTRODUCTION

This Labour Management Procedure ('LMP') provides an overview of the applicable Vanuatu laws and policies, and World Bank Environmental and Social Standard ESS2 Labour and Working Conditions provisions addressing the risks and issues that may arise during implementation of the Vanuatu Pacific Regional Oceanscape Program (PROP) Project. The LMP is a 'living document', which is prepared during project preparation, and will be reviewed and, if necessary, updated throughout the project implementation.

The risk management procedures will be integrated into the Project Operations Manual for the Project Management Unit to implement across all hiring and procurement processes. All consultants and contractors will also be required to follow the LMP for their hiring, mobilisation and staff management while working on the Project.

## 2 OVERVIEW OF THE PROJECT

The Vanuatu PROP will be part of the existing PROP Series of Projects (SOP). PROP SOP a multi-country, multi-phase regional World Bank initiative aimed to improve fisheries management and economic development of Pacific Island countries by strengthening sectoral institutions, enhancing sectoral governance, including enforcement of fisheries regulations to combat illegal, unreported and unregulated fishing, promoting sustainable fishing practices and diversification of livelihoods for fishing communities, and harnessing national and regional economic benefits of fisheries, including through improving access to regional and international markets. The VU PROP will be implemented by MFOMA.

The Development Objective of the Vanuatu PROP project is to "improve access to economic opportunities for fishers and fish workers, increase climate-resilient domestic supply of fish products and strengthen national capacity and regional collaboration for fisheries management".

The Vanuatu PROP project proposes to respond to some of the key issues in the fisheries sector through the following investments:

### 2.1 Component 1 Tuna Industry Domestication

#### ***Subcomponent 1.1. Investing in enabling public infrastructure for tuna industry domestication***

The project will infill some coastal area with a sheet pile quay (including backfill and paving) and construct a multipurpose, piled, 250 m long jetty near Luganville, Espiritu Santo, Sanma Province, at the location of the existing Vanuatu Fisheries Department (VFD) facilities.

The project will also fund investments in associated new or renovated onshore facilities, including a boatyard pen and gantry for boat maintenance, an administrative office building that accommodates fisheries inspections, customs service, police and enforcement, seafood certification, and other

administrative fishing port functions. The proposed infrastructure will accommodate dockside space and power plug-ins for cold storage reefer containers, provide fuel storage and refueling services, potable water reticulation, lighting and liquid waste treatment. Additional single-point moorings will be installed adjacent to jetty in 30-meter-deep waters.

*Workers will include design and ESIA consultants and contractors. Materials may be supplied by a quarry that may fit the definition of a Primary Supplier.*

### **Subcomponent 1.2. Developing a workforce for a national fisheries and seafood industry**

This sub-component will support an integrated approach to align curriculum development, workforce professionalization, and technology adoption through the National Maritime and Fisheries Training Institute located adjacent to the multipurpose jetty and onshore facilities in Luganville.

A fisheries technology and commercialization centre will be constructed on site to provide hands-on training, innovation support, and enterprise development services in seafood safety, cold chain logistics, value-added processing, including small-scale canning.

*Workers will include technical assistance consultants, design and ESIA consultants and contractors.*

## **2.2 Component 2. Small and Medium-sized Fisheries Value Chain Development**

### **Subcomponent 2.1. Investing in domestic fisheries value chains**

The project will support: (i) strengthening of fishers' associations by offering extension services for entrepreneurship; (ii) providing targeted technical assistance to fishers' associations to develop satellite distribution systems to enhance inter-island fish trading and to assess barriers and assessing barriers to facilitate business development; (iii) providing upgrades for the Luganville provincial fish market to support fish product aggregation, solar-powered cold storage, packaging and marketing (i.e., "hub"); (iv) practical training, extension services, and cold chain equipment for maintaining food quality in dispersed landing and handling points (i.e. "spokes").

Sub-component 2.1 will also invest in the construction of two demonstration vessel prototypes of about 7 and 8 meters, respectively, building on work initiated by the United Nations Food and Agriculture Organization and VFD. The project will support: (i) design and construction of two medium-scale fishing boat prototypes and related boat trials; (ii) boat demonstration tours and aFAD<sup>1</sup> fishing and gear innovation workshops for safe offshore movement of fishers; and (iii) associated communication and outreach campaigns. Scaled-up supply of these high-demand larger vessel types is beyond the scope of this project and will rely on scaled-up manufacturing and distribution of these vessel types by private-sector-run boatyards in Vanuatu. The vessels and training will both support offshore movement of fishers and advance fisheries on existing aFADs.

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<sup>1</sup> aFAD – anchored fish aggregating device.

*Workers will include technical assistance consultants and design/build/install contractors. Consultants may also be recruited for design or E&S services.*

### **Subcomponent 2.2. Informing domestic fisheries value chain management and development**

The sub-component will support the development of a pragmatic sampling and statistical extrapolation framework leveraging census and household surveys to improve coastal fisheries data, minimizing cost and effort. The project will support: (i) improved data collection (economic, social, biological) and analysis to inform management decisions and track sector performance, including the sector's economic contribution; (ii) increased use of data tools/apps/technology for efficiency, including upgrading and integration of existing regional tools such as apps for AI-supported electronic data collection, and corresponding ICT equipment; (iii) capacity building support and technical assistance to VFD in data collection and analysis to inform enforcement and management decisions.

*Workers will include technical assistance consultants.*

## **2.3 Component 3 Fisheries Governance and Institutional Strengthening**

### **Subcomponent 3.1. VFD Headquarters**

A site at the docks in Port Vila, under Government ownership, has been identified for the construction of the new low-emissions and climate and natural disaster-resilient VFD headquarters. The new cyclone and earthquake-resistant building would accommodate up to 150 staff according to staffing plans and several purpose-designed facilities and incorporate onsite photovoltaic power supply. The project will support: (i) design and construction of the headquarters building; (ii) furniture and fittings; (iii) two vehicles; (iv) equipment such as data recorders, computers, and personal safety gear; and (v) office supplies and services.

*Workers will include technical assistance consultants and design and build contractors.*

### **Subcomponent 3.2. Strengthening MCS capacity (US\$3.3 million)**

To maintain access to important and high-value export markets (e.g., European Union), it is critical for Vanuatu to demonstrate adequate progress in addressing illegal, underreported and unregulated fishing activities. At present, Vanuatu is not meeting regionally agreed requirements for observer coverage of the longline fishery. The project will support procurement, installation, and operation of up to 30 EM systems (onboard cameras and equipment) to be implemented alongside electronic recording to strengthen the vessel monitoring program and support a gradual long-term transition to increased use of electronic monitoring in lieu of observers, while supporting the observer placement program. The project will further support stakeholder outreach and public information campaigns to raise awareness on fisheries management and technical assistance services to support analysing fisheries data and providing capacity building for VFD in data collection and analysis.

*Workers will include technical assistance consultants.*

### ***Subcomponent 3.3. Supporting policy review and updating MCS capacity***

The project will support a series of policy and other reviews in support of increased transparency, accountability, and to inform improved regulatory management. Under discussion are the following reviews: review of beneficial ownership of locally based fishing companies, audit of the Vanuatu shipping register and its compliance with international legal obligations related to fishing vessels, review of opportunities and responsibilities under regional fisheries management organisation memberships, review of terms and conditions of fishing access agreements and licenses, policy and regulatory review of the management of small- and medium-scale fisheries. .

*Workers will include technical assistance consultants.*

## **2.4 Component 4 Project Management**

This component covers the staffing of the Project Support Team (PST), procurement of necessary equipment and software, and operational costs. Notably it includes funding for E&S resources and the preparation and implementation of E&S instruments and risk management measures.

*Workers will include consultants and may include secondments from Government agencies. Government workers with project responsibilities but not paid by the Project are not subject to the LMP except where noted below.*

## **3 OVERVIEW OF LABOUR USE ON THE PROJECT**

***Characteristics of Project Workers:*** ESS2 defines different types of Project workers, reflecting the differing degrees of control and influence a Borrower may have over working conditions and treatment of workers. ESS2 has different risk management standards for each type. Under the legislative framework of Vanuatu, no such definitions exist. Below is broad description of each type of Project worker, an estimate of the number of workers and the duration or length of time on the Project. This is all speculative based on the Project Appraisal Document and will be refined through the work programming, budgeting and procurement processes throughout project implementation.

***'Direct Workers':*** is a worker with whom the Borrower has a directly contracted employment relationship and specific control over the work, working conditions, and treatment of the project worker. The worker is employed or engaged by the Borrower, paid directly by the Borrower, and subject to the Borrower's day-to-day instruction and control. For Vanuatu PROP this will be:

- i. individuals filling roles in the Project Management Unit (Project Manager, E&S Officers etc.) who will have employment agreements with the Implementing Agency. Workers may be any gender and be ni-Vanuatu or international.

The total number is likely to be less than 10 and they will be required for the duration of the Project.

- ii. individual consultants or contractors who will have short term contract agreements to provide services to the Implementing Agency as subject matter experts for technical assistance tasks under various components. Workers may be any gender and be ni-Vanuatu or international. The total number could be between 10 and 20 individuals across the timeline of the project.

ESS2 guidance is specific that where government civil servants are working in connection with the project, whether full time or part time, they will remain subject to the terms and conditions of their existing public sector employment agreement or arrangement, unless there has been an effective legal transfer of their employment or engagement to the project (such as a secondment or unpaid leave of absence). ESS2 will not apply to such government civil servants, except for the provisions of child labour, forced labour and occupational health and safety.

**‘Contracted’ Workers:** are defined as people employed or engaged through third parties (such as consulting firms or contracting companies) to perform work related to core functions of the project, regardless of location. These workers have employment agreements with the firm and the firm has a contract with the Implementing Agency to provide services or to conduct physical works. For Vanuatu PROP Contracted Workers are likely to be:

- I. consultants and technical specialists working in firms providing technical assistance services for engineering or architectural design, environmental and social assessments, educational curricula, training and other services. This also relates to any sub-consultants or sub-contractors. There may be 30+ workers across several firms and each individual worker may work for a few days to a few months. Workers may be based in Port Vila or Luganville, or from other countries. Most will have short term visits to Port Vila and / or Luganville and most will also work from their home office. Workers may be any gender and be ni-Vanuatu or international.
- II. Technical specialists, skilled workers and semi-skilled and unskilled labourers working for contracting firms. These workers may come from other countries, the urban areas of Port Vila and Luganville, or from semi-rural and rural areas of Efate, Santo or other islands. Workers may be any gender although traditionally this sector is dominated by males and it is likely that women may make up less than 30% of the workforce. Contractors will be required for:
  - a. VFD Headquarters construction, Port Vila (40+ workers estimated; 12 months estimated)
  - b. Reclamation, jetty, moorings, boat pen and gantry and VFD building construction, Luganville (50+ workers estimated, 24 months estimated)
  - c. Cool storage and solar PV installation and minor renovations, Luganville Provincial Fish Market (6+ workers estimated; 2-3 months estimated)

This estimate includes any sub-contractor workers engaged by the main contractor.

**‘Primary Supplier’ Workers** are defined as people are those suppliers who, on an ongoing basis, provide directly to the project goods or materials essential for the core functions of the project. For this project the only Primary Supplier may be public or private quarry operators who provide fill for the reclamation in Luganville. The quarry has not yet been identified, but it is assumed that there may be <10 Primary Supplier workers. Traditionally this sector is dominated by males.

**Vulnerable Workers** It is not yet identified if there are any vulnerable workers who will be engaged in the project (such as disabled, neuro-diverse, gender identity that is neither male or female, women in certain circumstances) but if so, protection to such workers will be based on the World Bank Group EHS Guidelines, World Bank ESF Guidelines and other laws and guidelines consistent with ESS2 and the Vanuatu Employment Act of 1983. Workers under the age of 18 are considered vulnerable and they are discussed in Section 9.

#### **Security Personnel**

According to World Bank security risk information, petty crime and accommodation break-ins are possible and foreigners are targeted. Site may require security to protect the community from health and safety hazards. Therefore, locally hired security personnel may be required at workers accommodation or at construction sites.

#### **Vanuatu PROP will not have any of the following workers:**

No seasonal workers, migrant workers, volunteers from the community or other types of workforce are anticipated. There will be no forced labour or labour under the age of 15. No police or military personnel will be engaged by the project. The project will not engage or recruit workers on ships.

## **4 ASSESSMENT OF KEY POTENTIAL LABOUR RISKS**

- Risks of labour influx or gender based violence
- Possible accidents or emergencies, with reference to the sector or locality
- General understanding and implementation of occupational health and safety requirements

#### **Construction Occupational Health and Safety Risks from Multiple Hazards**

The construction activities in Port Vila and Luganville may expose workers to hazards when:

- Working on or near water (for works near the coast or when visiting vessels)
- Working with or near heavy machinery such as excavators
- Working at height
- Working in confined spaces
- Working with wet concrete
- Handling fuel, oils, glues, paints, solvents, acid or alkali materials and other hazardous materials
- Working with electricity
- Heavy lifting
- Working with power tools

The baseline context for occupational health and safety is relatively low general understanding of occupational health and safety risk management, especially in the formal work sector and small

businesses. Institutional oversight by the Department of Labour is good but requires strengthening to meet standards set by the World Bank Group EHS Guidelines.

### **Personal Protective Equipment availability and use**

There is a risk that suitable PPE is not provided by employers or that it is not used or worn correctly and consistently. This is due to a range of factors, including a workplace culture that is unfamiliar or places low priority on PPE, funds diverted for other purposes, poor quality or no workplace supervision and workers finding PPE uncomfortable or not trained how to wear or use it appropriately.

### **Informal work practices**

Semi-skilled and unskilled workers are at risk of exploitation from poor or no contracts, unpaid wages, unfair dismissal and other breaches of the Employment Act. The informal sector is approximately 60% of the workforce and includes small businesses and family-based agricultural work. There is a risk that small businesses, such as sub-contractors, exploit ni-Vanuatu who may be unfamiliar with formal / legal work practices and not understand their legal rights. The risk may be higher in Luganville where semi-skilled and unskilled labourers will be keen to work on the Project.

### **Labour disputes over terms and conditions of employment**

For direct workers, disputes may arise due to lack of adherence to official work hours and compensation for overtime, potential discrimination in recruitment and employment and potential for lack of equal pay for equal work for men and women in violation of national law. For contracted workers, disputes may arise due to the delay of processing of wages, disagreement with the working conditions, and health and safety concerns in the work environment. Likewise, unequal distribution of tasks and unresolved grievances of workers may lead to labour unrest.

### **Sexual harassment in the workplace**

A 2022 survey by NGO Sista, with support from Fiji Women's Rights Movement in Partnership and the Pacific Islands Forum, with funding from the European Union in the Pacific through the Pacific Partnership has revealed 66% of women have experienced sexual harassment at their workplace, and 54% of girls and women between the ages of 16 – 29 years have experienced a higher rate of sexual harassment. Another key finding was single women and girls experience the most sexual harassment at their workplace. In addition, 79% of sexual harassment cases at the workplace were not reported and women did not report due to the normalisation of sexual harassment, or faced unclear strategies on how to report.

### **Gender-based violence / SEA/SH and Violence Against Children from Contractor workforces**

There is a risk with any foreign workforce, or workforce from other parts of the country, of exploitation, harassment and / or violence against community members. The risk can be exacerbated by vulnerable people such as young women and children.

### **Security risks for the project, including security risks to project workers, assets, and activities**

These risks will be assessed in the environmental and social assessment for each construction sub-project. Overall security risks are likely to be low; security arrangements might consist of simple measures such as fencing or signs and locally-hired security guards at night at construction sites and / or worker accommodation. But if security risks are considered more substantial, the PMU and/or contractors must prepare a management plan to include details of how security personnel will be vetted for criminal records and past demeanors, and will provide details of how personnel will be hired, trained, equipped and monitored to protect the community from unnecessary force of violence. Any incidents or allegations of unlawful or abusive acts will be managed under the grievance mechanism (or SEA/SH grievance mechanism).

## 5 BRIEF OVERVIEW OF LABOUR LEGISLATION: TERMS AND CONDITIONS

This section sets out the *key aspects* of national labour legislation with regards to term and conditions of work, and how national legislation applies to different categories of workers identified in Section 1. The overview focuses on legislation which relates to the items set out in ESS2, paragraph 11 (i.e. wages, deductions and benefits).

The **Constitution of the Republic of Vanuatu** was adopted at the time of independence in 1980 and contains several relevant articles relating to the key aspects of worker terms and conditions. The constitution guarantees protection from forced labour, the right to form associations and unions, and freedom from discrimination.

The **Employment Act of 1983** and amendments (collectively **Employment CAP 160**) is Vanuatu's main piece of labour legislation. It regulates the establishment of a tripartite Labour Advisory Board, prohibits forced labour and sex discrimination in employment, and regulates terms and conditions of work including working hours and leave entitlements, overtime pay, contractual issues and termination, employment of women and youth, among others.

Key aspects of the national labor legislation with regards to term and conditions of work, and how national legislation applies to direct workers are discussed in turn:

**Information provided to workers.** As per Part 4 of the Employment Act [Cap 160], a contract of employment may be either written or oral. Fixed term contracts exceeding six months or where the employee has to reside away from his ordinary place of residence shall be in writing. They have to state the names of the parties, the nature of employment, the amount and mode of payment of remuneration, and any other terms and conditions of employment. Vanuatu's Employment Act is consistent with the international labour standards (ILS) adopted by Vanuatu and with ESS2.

**Payment of Wages.** The Employment Act, Section 16(1) requires wages to be paid in cash, unless payment by bank cheque has been agreed to in writing. Remuneration has to be paid no later than 8 days after the end of the period to which it relates. It has to be paid at regular intervals not exceeding 15 days to every employee whose remuneration is calculated by the hour, day or month (Section 16(6 and 7)). Wages paid in cash shall be made on working days at or near the place of work (Section 16(4)). Subject to the written

approval of a labour officer, part of the remuneration may be paid in the form of allowances in kind in industries or occupations in which such payment is customary or desirable (Section 16(2)). The Employment Act stipulates the frequency and method of the payment of wages. National legislation is consistent with the International Labor Standards adopted by Vanuatu and with ESS2.

**Minimum wage.** Vanuatu has not ratified the Minimum Wage Fixing Convention, 1970 (C131). According to C131, in determining the level of minimum wages the needs of workers and their families, the general level of wages in the country and the cost of living shall be taken into account. The minimum wage is consistent with the ILS adopted by Vanuatu and with ESS2. ESS2 does not refer to the level of wages, instead focussing on compliance with national law in regards to the payment of wages.

**Working hours and rest periods.** The Employment Act (Section 22) sets the general maximum working hours per day at eight, and the maximum working time per week at 44 hours and six days. The working hours shall not exceed 56 in a week on average. Work carried out in excess of the normal weekly hours of work, is paid at a minimum rate of one-and-a-quarter times the normal hourly rate for the first 4 hours, and one-and-a-half times the normal hourly rate for any work time in excess of 4 hours (Section 26). With the exception of workers in specified industries, no worker shall be required to work on a Sunday or public holiday (Section 23). Employees who work on a Sunday or public holiday shall be granted an equivalent period of time off work on another day and are remunerated at a minimum rate equal to one-and-a-half times the normal hourly rate (Section 26). Employees who are at work for more than six consecutive hours shall be granted a break of one hour for a meal and a tea break of 20 minutes or two tea breaks of ten minutes each (Section 24). Employees are entitled to a weekly rest period of 24 consecutive hours (Section 25). The Employment Act stipulates working hours and rest periods; It is consistent with the ESS2 and with the ILS adopted by Vanuatu. The Employment Act is also largely consistent with the ILO Hours of Work (Industry) Convention, 1919 (C001) which introduced a maximum standard working time of 48 hours per week and eight hours per day as an international norm.

**Leave Entitlements.** Employment Act (Section 29) stipulates that employees who have been in continuous employment for 12 consecutive months are granted annual leave on full pay at the rate of one working day for each month of employment. The rate of paid annual leave is increased after 20 years of continuous employment. After 12 months of continuous employment, employees are entitled to 21 days of paid sick leave per year (Section 34). Women are entitled to up to 12 weeks maternity leave (six weeks before and six weeks after confinement), during which they receive at least half their normal pay (Section 36). The law does not stipulate a minimum period of continuous employment as a precondition for the entitlement to paid maternity leave. The leave entitlements are consistent with ESS2 which stipulates that project workers will be provided with adequate periods of rest per week, annual holiday and sick, maternity and family leave, as required by national law and labour management procedures. They are also consistent with the ILS adopted by Vanuatu.

**Termination procedures.** Termination procedures are stipulated in Part 10 of the Employment Act, Sections 48 - 53. This includes procedures regarding the notice of termination, termination payments and dismissal due to serious misconduct. The notice period for terminations that both employers and

employees have to adhere to depends on the duration of employment. Contracts for unspecified periods of time can be terminated without reason by giving notice in accordance with Section 49. The Employment Act does not provide details on lawful or unlawful reasons for termination, except for stipulating that it is unlawful to give notice of dismissal to a woman on maternity leave or absent as a result of illness that arise out of pregnancy or confinement, provided that such additional absence from work does not exceed three weeks. The Employment Act stipulates termination procedures including notice periods and termination payments. It is therefore consistent with the International Labor Standards adopted by Vanuatu and with ESS2.

**Non-discrimination and equal opportunity.** The Constitution prohibits discrimination on the grounds of race, place of origin, religious or traditional beliefs, political opinions, language or sex in regards to several fundamental rights and individual freedoms. Employment is not included in the list of rights and freedoms. The Employment Act does not prohibit discrimination in employment against specific groups of workers, except for prohibiting sex discrimination in employment (Section 8). The Act stipulates that women employed in like work with men are entitled to remuneration at the same rate. Sex discrimination in hiring is not prohibited. The Employment Act does not explicitly refer to sexual harassment but it stipulates that an employee who is ill-treated by the employer may terminate their contract and be entitled to their full remuneration for the appropriate period of notice (Section 53). Women are allowed to do the same jobs as men but are not allowed to work the same hours. Women are prohibited to work at night between 7 pm and 6 am, except in areas explicitly listed (Employment Act, Section 35)<sup>2</sup>. Furthermore, Vanuatu has ratified C111 - Discrimination (Employment and Occupation) Convention which prohibits any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. On Equal remuneration for equal work, the Employment Act stipulates that a woman must be paid equal remuneration with a man where she is employed on like work with a man (Section 8(1)). The Employment Act does not explicitly allow for special measures in order to improve the conditions of disadvantaged individuals or groups. However, since discrimination is not prohibited under the Employment Act, special measures would not be deemed to be discriminatory under the Act. The Employment Act is consistent with the International Labor Standards and ESS2.

**Child labour.** The minimum age for work in Vanuatu is 14 and for hazardous work it is 15 (Employment Act, Sections 39 and 40). National legislation is not consistent with the ILS because the Employment Act allows children to work from the age of 14. It is also consistent with ESS2 according to which children from the age of 14 can be employed in any type of work.

**Forced labour.** The law provides for the right of workers to form and join independent unions, and to strike. The Trade Union Act of 1983 requires unions to register with the government. The Employment Act (Section 50) prohibits antiunion discrimination and retaliation for legal strikes. The law does not explicitly require reinstatement of workers fired for union activity. National legislation is consistent with

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<sup>2</sup> This is not in alignment with Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW /C/VUT/4-5. 2014. Committee on the Elimination of Discrimination against Women Consideration of reports submitted by States parties under article 18 of the Convention Fourth and fifth periodic reports of States

the ESS2 and with the ILS adopted by Vanuatu. Workers' organisations. The law provides for the right of workers to form and join independent unions, and to strike. The Trade Union Act of 1983 requires unions to register with the government. The Employment Act (Section 50) prohibits antiunion discrimination and retaliation for legal strikes. The law does not explicitly require reinstatement of workers fired for union activity. National legislation is consistent with the ESS2 and with the ILS adopted by Vanuatu. Grievance mechanism. The Employment Act and the Trade Disputes Act do not regulate grievance procedures at the workplace level through which workers can raise individual or collective concerns. The Trade Disputes Act establishes a framework for the settlement of individual disputes and trade disputes. National legislation is consistent with the ILS and ESS2.

## 6 BRIEF OVERVIEW OF LABOUR LEGISLATION: OCCUPATIONAL HEALTH AND SAFETY

This section sets out the *key aspects* of the national labour legislation with regards to occupational health and safety, and how national legislation applies to the different categories of workers identified in Section 1. The overview focuses on legislation which relates to the items set out in ESS2, paragraphs 24 to 30.

**Health and Safety at Work Act 1987** relates to the Employment Act. The Act deals with various aspects of occupational health and safety and requires the employer to provide for the health, safety, and welfare of the workers during their employment. Part 2 of this Act strongly calls for the employer to exercise the duty of care for its employees. It also outlines the duty of the employee to its employer while at the worksite in Part 4. Part 7 outlines the substance and articles for use while at work. This includes PPE, instruments and other equipment that must be appropriate and fit for purpose.

All employers and work places under the Project will be subject to compliance with this Act.

## 7 RESPONSIBLE STAFF

This section identifies the functions and/or individuals within the project responsible for (as relevant):

- engagement and management of project workers
- engagement and management of contractors/subcontractors
- occupational health and safety (OHS)
- training of workers
- addressing worker grievances

In some cases, this section will identify functions and/or individuals from contractors or subcontractors, particularly in projects where project workers are employed by third parties.

## 8 POLICIES AND PROCEDURES

This section sets out information on OHS, reporting and monitoring and other general project policies. Where relevant, it identifies applicable national legislation.

Where significant safety risks have been identified as part of Section 2, this section outlines how these will be addressed.

Where the Borrower has stand-alone policies or procedures, these can be referenced or annexed to the LMP, together with any other supporting documentation.

### **SEA/SH in the workplace and by Project Workers<sup>3</sup> on any person**

#### **I. Component 1, 2, 3 and 4**

All Project Workers are required to:

- Sign a Code of Conduct that specifically prohibits SEA / SH.
- Complete an induction session on the SEA / SH.

All hirers are required to monitor behaviour and implement the consequences as per the Code of Conduct.

#### **I. Component 1, 2, and 3**

Awareness will be conducted with communities where civil works are occurring on:

- The Code of Conduct, and expectations related to SEA/SH of Project Workers.
- How to make a report related to SEA/SH by Project Workers.
- Specialist gender-based violence services available.

The project will establish a pathway in the Grievance Redress Mechanism (GRM) to receive and respond to cases of GBV, both Project-Related and reports that are made to the project that are not Project-Related.

The Project GRM will ensure the survivor’s safety, rights, needs, and wishes will be prioritized. This means:

<b>Safety</b>	Nothing will happen that puts the survivor at further risk of harassment, violence or retaliation by the alleged perpetrator or anyone else.
<b>Choice</b>	The survivor will choose what happens and be involved in decision-making including what action(s) are taken and what information about the incident is shared.
<b>Consent</b>	The survivor will provide consent at each stage of the complaint handling process.
<b>Confidentiality</b>	The survivor’s privacy and confidentiality will be protected including that all information that is captured about the incident will be kept confidential.

<sup>3</sup> This does not apply to Primary Supply Workers

<b>Informed</b>	The survivor will be provided comprehensive information so that they know what is happening and what will happen at each stage of the process.
<b>Supported</b>	The survivor will be referred to and supported to access specialist services to assist in their recovery including accessing police, court, health, and social services.
<b>Respect</b>	The survivor will be always treated with dignity and respect.
<b>Non-discrimination</b>	The process will not discriminate based on sex, age, race/ethnicity, ability, sexual orientation or gender identity, or other characteristics.

In addition to applying a survivor-centered approach, to uphold the rights of the survivor and alleged perpetrator, the resolution of reports of incidents GBV, including SEA / SH, will be:

- Easy to access.
- Flexible to the specific needs of the survivor.
- Transparent with possible outcomes clearly explained and those involved will be kept informed of the progress of the report and the reasons for any decisions.
- Timely with an investigation into an incident commencing within 48 hours of the report and be resolved within 2 weeks, unless there are exceptional circumstances.
- Fair with decision-makers who do not have perceived or actual bias toward those involved in the report, particularly toward the alleged perpetrator or the victim / survivor.

### **Contractor’s Accommodation and Living Conditions**

If accommodation is to be provided by Contractors for workers from other islands or from other countries, then they will have access to canteens or regular food services, medical facilities, appropriate areas for rest and hygiene facilities. Separate sleeping and hygiene facilities will be provided for men and women. These requirements are the same whether accommodation is provided by the Contractor or third party. The sites will be safe and secure.

### **Primary Supply Workers (Quarry Workers)**

During procurement processes for any third party quarry to supply fill materials for the coastal reclamation, the implementing agency or Contractor funded by the Project will include clauses relating to the right to ask for information and / or carry out site visits to observe potential hazards that may result in significant occupational health and safety risks.

Prior to any supply contract agreed with any third party quarry to supply fill materials for the Luganville reclamation, the quarry will be visited by the PMU and / or the Contractor and observations for health

and safety hazards and risks will be made. Where *significant* health and safety risks are identified then the Implementing Agency or Contractor decide not to enter into a contract, or the following will be implemented:

Supply agreements between the Implementing Agency and a Primary Supplier, or supply agreements between a Contractor funded by the Project and a Primary Supplier, will include requirements to provide information (when requested) on the following, for the period of the supply contract:

- OSH policies and procedures.
- Keep records and report on serious near misses, lost-time accidents and fatalities.
- Any other requirements in order to protect workers from significant harm, to the extent possible.

### **Workers under the age of 18**

The age employment scheme provided under Section 9 should be strictly observed by the hirer. To prevent engagement of workers under the age of 14, and ensure workers 14-17 are not hired under the circumstances in Section 9, all hires will have a procedure to screen applicants and verify ages in the selection of workers. Likewise, all contracts must have a provision as to the minimum age requirement and the hirer shall keep a registry of all hired workers.

Where workers 14-17 years of age have been hired, the hirer will:

- I. Undertake a risk assessment prior to any work commencing.
- II. Conduct regular monitoring of health, working conditions, hours of work.

## **9 AGE OF EMPLOYMENT**

In accordance with the Employment Act and ESS2, no workers under the age of 14 will work on the Project. Workers between the age of 14 and 17 may work on the Project for light duties, office duties and unskilled labour and may not work during the night, for any industrial undertaking<sup>4</sup> or in dangerous or hazardous conditions<sup>5</sup> or interfere with education be harmful to the child's health or physical, mental, spiritual, moral, or social development<sup>5</sup>. Procedures for hiring and managing workers between the age of 14 and 17 are documented in Section 8.

## **10 TERMS AND CONDITIONS**

**Remuneration:** Project workers engaged on contracts with the project, approved by the World Bank in “No Objection” process and pursuant to World Bank procurement guidelines as appropriate. Clear terms

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<sup>4</sup> In accordance with Section 41 of the Employment Act.

<sup>5</sup> In accordance with the ESS2.

and conditions will be included in all contracts include terms and conditions of employment, applicable leave arrangements, wage deductions, and hours/timeframe of work, timing of payments.

**Remuneration:** Specific remuneration is considered private and confidential to each person/firm undertaking the work. Competitive international and national consultant rates will be included in all Vanuatu PROP activities. Men and women will be paid the same for the same work. Overtime remuneration will be in accordance with the Employment Act for Direct workers.

**Hours of work:** Will be in accordance with the Employment Act, but contracts will stipulate a normal work week will not exceed 40 hours for Direct Workers.

**Collective agreements:** Direct and Contracted Workers will be free to join a workers organization of their choosing; the Project will not seek to influence or control such arrangements.

**Occupational Health and Safety for Direct and Contracted Workers:**

Direct and contracted workers will be required to operate in accordance with the Health and Safety at Work Act, the requirements of the ESMP or ESCOP prepared for the activity and in accordance with relevant the WBG EHS Guidelines.

Direct and Contracted workers will receive training during induction, thereafter on a regular basis and when changes are made in the workplace, with records of the training kept on file. Training will cover relevant aspects of OHS associated with daily work, including the ability to stop work without retaliation in situations of imminent danger.

Any project workers on site visits are to be provided with appropriate PPE suitable for the risks, (such as safety boots, helmets, gloves, protective clothes, goggles, life jackets, ear protection) at no cost to the workers. Workers are to be provided with potable water supplies, first aid facilities, a toilet and hand washing facilities at works sites. Other procedures for Civil Works Contractors are provided in Section 12.

## 11 GRIEVANCE MECHANISM

Managers and Workers are encouraged to use informal methods of resolving disagreements or disputes. If Workers have a reasonable grievance or complaint regarding their work or the people they work with they should, wherever possible, start by talking it over with their manager. It may be possible to agree a solution informally between the Worker and the manager. If discussions with line managers fail to resolve the issue, it is still possible to pursue an informal approach without triggering a formal procedure. For example, an independent senior government official could host an informal meeting or discussion.

A Labour Grievance Mechanism for direct workers (national and international) will be included within worker's employment or consultancy contracts based on the Vanuatu Trade Disputes Act which provides

the framework for the settlement of individual disputes and trade disputes. The Trade Disputes Act is consistent with the International Labor Standards and ESS2.

For contracted workers (consultants or contractors) all contracts between the firm and the implementing agency will be required to include a Labour Grievance Mechanism. The contract Labor Grievance Mechanism will need to provide provisions for maintaining confidentiality for all grievances at all times and providing for no retaliation against workers for raising a grievance. Labour Grievance Mechanism clauses will be prepared by the procurement team and reviewed by the E&S officers.

For all grievances that are unresolved informally, the next step will be the lodgement of the grievance (written or verbal) to their manager, or the PMU Manager, either of whom will, within two weeks, provide a response and seek resolution. If a resolution cannot be attained or agreed by the claimant then the respective manager may escalate the grievance to those in higher authority to review the complaint and seek a resolution.

All illegal activities will be directly reported to the Police and/or Department of Justice and managed accordingly.

During Project induction, Contract Workers and Direct Workers will be advised that there is a Labor Grievance Mechanism where workers can raise complaints and have them processed. Moreover, the PMU Project Manager or delegate will provide contact information and provide a location where Workers can log their complaints.

There will also be a notice at the PMU office at all times explaining the Labor Grievance Mechanism and providing contact details.

## 12 CONTRACTOR MANAGEMENT

### 12.1 General Procedures

The procurement process will include due diligence to determine the legitimacy and reliability of the third party. A risk assessment will be undertaken for each procurement. The outcome may be one or more of the following:

- A requirement for bidders to share specific information on labour and working conditions (policies, procedures, staff-led committees, audit processes) ;
- Due diligence of public information on bidders (corporate records, court records, business licences, permits;
- Occupational health and safety records or data
- Disclosure of violations, serious incidents, fatalities and complaints.

The borrower will monitor the labour and working conditions of all workers as part of contract management and through the monitoring and supervision of ESMP, OSH plans, CESMP and other instruments. Regular OSH audits and monitoring will be done on all construction sites, as part of the

role of the construction supervision. Experienced OSH personnel will form part of the supervision team. Contractor's record keeping and reporting will include details of labour and working conditions incidents and complaints and the resolution processes.

## 12.2 Sample Code of Conduct for Contracted Workers

This Code of Conduct identifies the behaviour required from all personnel of (name of contractor's firm) working at the \_\_\_\_\_ site . Unsafe, offensive, abusive or violent behaviour will not be tolerated and all persons should feel comfortable raising issues or concerns without fear of retaliation.

Required Conduct All (name of contractor's firm) personnel shall:

- carry out his/her duties competently and diligently;
- comply with this Code of Conduct and all applicable laws, regulations and other requirements, including requirements to protect the health, safety and well-being of other contractor's personnel and any other person;
- maintain a safe working environment by:
  - ensuring that workplaces, machinery, equipment and processes under each person's control are safe and without risk to health;
  - wearing required personal protective equipment;
  - using appropriate measures relating to chemical, physical and biological substances and agents; and
  - following applicable emergency operating procedures;
- report work situations that he/she believes are not safe or healthy and remove himself/herself from a work situation which he/she reasonably believes presents an imminent and serious danger to his/her life or health;
- treat other people with respect, and not discriminate against specific groups such as women, people with disabilities, migrant workers, indigenous people, or children;
- not engage in sexual harassment, i.e. unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature;
- not engage in sexual exploitation, or any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to: profiting monetarily, socially or politically from the sexual exploitation of another;
- not engage in sexual abuse, which means the actual or threatened physical intrusion of asexual nature, whether by force or under unequal or coercive conditions;
- not engage in any form of sexual activity with individuals under the age of 18 (regardless of the legal age of consent in Vanuatu), except in case of preexisting marriage;
- not engage in any other form of harassment, mental or physical coercion, or verbal abuse of its employees;
- undergo relevant training or orientation that will be provided related to the environmental and social aspects of the Contract, including on health and safety matters;
- report violations of this Code of Conduct; and

- not retaliate against any person who reports violations of this Code of Conduct.

**Raising Concerns** If any person observes a behaviour that he/she believes may represent a violation of this Code of Conduct, or that otherwise concerns him/her, he/she should raise the issue promptly to:

Name, address and contact number of person designated by contractor to handle social issues/concerns)\_

This can be done either in writing, by telephone, or in person. The person's identity will be kept confidential, unless reporting of allegations is mandated by the country law. Anonymous complaints or allegations may also be submitted and will be given all due and appropriate consideration. We take seriously all reports of possible misconduct and will investigate and take appropriate action. We will provide warm referrals to service providers that may help support the person who experienced the alleged incident, as appropriate.

**Sanctions** Any employee who has breached this Individual Code of Conduct will be subject to any of the following actions:

- Informal warning
- Formal warning
- Loss of up to one week's salary
- Suspension of employment (without payment of salary), for a minimum period of \_\_\_\_ up to a maximum of \_\_\_\_\_.
- Termination of employment
- Reporting to the police if warranted

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Person-in-Charge and Name of Contractor's Firm